

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE PRESCRIPTION
OPIATE LITIGATION

THIS DOCUMENT RELATES TO ALL CASES

MDL No. 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

**KROGER DEFENDANTS’ MOTION FOR LEAVE TO FILE
MOTION TO DISMISS WITH PREJUDICE FOR FAILURE TO COMPLY
WITH ORDER REGARDING SERVICE OF PROCESS**

Pursuant to Case Management Order One (Doc #: 232), Defendants The Kroger Co., Smith’s Food & Drug Centers, Inc., Kroger Specialty Pharmacy, Inc., Fred Meyer, Inc., Harris Teeter, Inc., Kroger Texas L.P., Kroger Limited Partnership I, and Kroger Limited Partnership II (collectively “Kroger”) respectfully request leave to file its *Motion to Dismiss with Prejudice for Failure to Comply with Order Regarding Service of Process* (the “Motion”). A copy of the Motion is attached as Exhibit 1.

The Motion respectfully requests that the Court dismiss Kroger as a defendant in those cases listed in Exhibit 1 to the Motion and all other cases in which Kroger was named as a defendant but not timely served. Kroger seeks to file the Motion pursuant to the Court’s Order Regarding Service of Process (Doc #: 4986), which states that “any defendant may move for dismissal with prejudice of any claim against them filed by a plaintiff that fails to comply with this Order.” Kroger reserves all its defenses pertaining to issues other than untimely service.

Date: June 16, 2023

Respectfully submitted,

*The Kroger Co.,
Kroger Specialty Pharmacy, Inc.
Fred Meyer, Inc.
Harris Teeter, Inc.
Kroger Texas L.P.
Kroger Limited Partnership I,
Kroger Limited Partnership II,
Smith's Food & Drug Centers, Inc.*

By counsel,

/s/ Ronda L. Harvey

Ronda L. Harvey, Esq. (WVSB 6326)
Ashley Hardesty Odell, Esq. (WVSB 9380)
Fazal A. Shere, Esq. (WVSB 5433)
Jennifer B. Hagedorn (WVSB 8879)

BOWLES RICE LLP

600 Quarrier Street
Charleston, West Virginia 25301
304-347-1100
rharvey@bowlesrice.com
ahardestyodell@bowlesrice.com
fshere@bowlesrice.com
jhagedorn@bowlesrice.com

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on June 16, 2023, the foregoing document was filed with the Clerk of Court using the CM/ECF system which will send notice to all counsel of record. Copies of this document may be obtained through the CM/ECF system.

s/ Ronda L. Harvey
Ronda L. Harvey, Esq. (WVSB 6326)